



CITY OF STOCKTON

OFFICE OF THE CITY MANAGER

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May 5, 2011

Delta Stewardship Council
Attn: P. Joseph Grindstaff
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DELTA PLAN – THIRD STAFF DRAFT

The City of Stockton appreciates the opportunity to review the Third Staff Draft of the Delta Plan. The City recognizes the significant statutory responsibility of the Delta Stewardship Council, as stated in the Sacramento-San Joaquin Delta Reform Act to achieve the coequal goals of: protecting, restoring, and enhancing the Delta ecosystem and providing a more reliable water supply for California. The Delta Reform Act specifies that these coequal goals be achieved "in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

The following comments reflect the City's general concerns with the existing content of the Delta Plan:

- All existing and planned development and public improvements within the City's adopted 2035 General Plan, Urban Service Area, Infrastructure Master Plans, and Sphere of Influence boundaries (including areas within the Primary and Secondary Zone of the Sacramento/San Joaquin Delta as defined by the Delta Protection Act of 1992) and covered by the corresponding certified Environmental Impact Report should be exempt from the Delta Plan.
- This Plan just adds another layer of bureaucracy which hinders economic growth. It will add cost and delay any new development which is sorely needed by the City.
- The reference to a project being consistent with a "Sustainable Communities Strategy" in order to be exempt is too ambiguous, which may lead to litigation.
- The definition of "project" should be exactly the same as it is in CEQA, including all the exemptions recognized by CEQA.
- The Plan could stifle in-fill development in downtown Stockton, which is in the secondary zone. In-fill development should be exempt as it is recognized as a vital part of the Attorney General/Sierra Club/City 2035 General Plan Settlement Agreement.
- All levee improvements and any other flood control projects should be exempt.

- Any improvements to existing public facilities should be exempt, especially if the improvements are required by other regulatory agencies.
- Land use planning should remain with the local jurisdictions.
- All projects undertaken to comply with a regulatory action, including but not limited to the anticipated upgrades to the City's Regional Wastewater Control Facility (RWCF) to meet state water quality requirements, should also be exempt from the Delta Plan.
- As the Delta Independent Science Board has stated that there is no broadly accepted objective methodology for prioritizing stressors, the Council has no mechanism to assess fair and equitable stressor fees.
- Pollutant loading fees for constituents discharged under limits established by permits issued by the Regional Water Quality Control Board both duplicate existing discharge fees and usurp the authority of the Regional Board.

Land Use Authority

It is the City's understanding and position that all contemplated and existing development within the adopted 2035 General Plan, Urban Service Area, Infrastructure Master Plans, and Sphere of Influence boundaries (including areas within the Primary and Secondary Zone of the Sacramento/San Joaquin Delta as defined by the Delta Protection Act of 1992) and covered by the corresponding Certified EIR are exempt from the "covered actions" under the Delta Reform Act, as a Notice of Determination was filed prior to the effective date of the Delta Plan. If this is not the understanding of the Delta Stewardship Council, the City of Stockton respectfully requests that any future development activities within the City's adopted 2035 General Plan, Urban Service Area, Infrastructure Master Plans, and Sphere of Influence boundaries (including areas within the Primary and Secondary Zone of the Sacramento/San Joaquin Delta as defined by the Delta Protection Act of 1992) will be considered an exempt activity in the Delta Plan.

Public Projects

The only project currently under construction in the Primary Zone of the Delta is the Delta Water Supply Project's intake facility and a portion of the raw water conveyance system. This project should be exempt as it has already been permitted and is underway. However, any changes or enlargements to it after Jan. 1, 2012, could be considered a "covered action" under the Delta Plan. What that means is that the City would have to self-certify that our project is consistent with the Delta Plan.

The RWCF is expecting to complete a multi-million dollar upgrade over the next decade. According to the map for the Delta Protection Act of 1992, the RWCF ponds are located in the Primary Zone of the Delta. With this letter, the City formally is requesting that any upgrade related to compliance with a regulatory action to meet state water quality or other regulatory requirements, be considered exempt from the Delta Plan.

Detailed Comments

1. - Figure 1-1: Add the City of Stockton to the Delta Plan Study Area map.
2. - P.15, line 4: Public Resources Code Section cited should be 21065 instead of 20165 as written.
3. - P. 13, 2100 (Long Term): says sea level rise of more than 55 inches. Chart says 40-55 inches.
4. - P. 16, The Delta Stewardship Council may incorporate part or all of other plans related to the Delta. This could be contrary to State/Federal/local partnerships for a regional systems approach.
5. - P. 35 discusses a covered action as "a subdivision in a Delta floodplain..." Not sure what a Delta floodplain is. Plan should clarify.
6. - P. 67, ER P4 discusses protection of floodplains in the Delta and Delta watershed. The Delta watershed could be defined as most of the Central Valley from the Coast Range to Sierra Nevada. Plan should clarify. Same comment in the 3rd bullet on alternatives including setback levees.
7. - P. 82, WQ R7, requires dischargers of wastewater treatment plant effluent or urban runoff to Delta waters to evaluate whether all or a portion of the discharges can be recycled or otherwise used in order to reduce contaminant loads to the Delta. Plan should define "Delta waters".
8. - P. 91, Table 7-1, footnote d: conflicts with 100-year in table.
9. - P. 92, Flood Management Investment, 2nd paragraph: many Project levees are managed by local agencies.
10. - P. 94, RR R5, should read: "....flood insurance for residences, businesses...."
11. - P. 95, RR R6, should discuss why this District is needed and should define "participants within the Delta."
12. - P. 96, why is "Percentage of floodplains or floodways defined and regulated to protect flood capacity" a Performance Measure?
13. - P. 103, Problem Statement, discusses urbanization within the Secondary Zone may adversely affect resources in the Secondary Zone. Not sure where the Delta Stewardship Council is going with this. Please clarify.

14. - P. 113, FP R11, should define the boundary of the Delta Flood Management Assessment District. Does it include the Primary and Secondary Zones? Does it include the "Delta watershed"? Does it include water exporters?

15. - Appendix A, P. 11 discusses exception of "covered actions" within the secondary zone when the MPO has determined it is consistent with either a Sustainable Communities Strategy or an Alternative Planning Strategy that would achieve specified greenhouse gas emission reduction targets. The City is requesting that the Delta Stewardship Council explain in detail the process of how "plans, programs, projects, or activities would be excepted from the definition of a "covered action".

As stated above, the City has significant concerns related to the proposed provisions of the Delta Plan. The City contends that the Delta Plan, as currently constituted would erode Stockton's autonomy as a legally recognized entity and usurp a significant amount of local land use authority. The City respectfully requests that the Delta Stewardship Council respond in detail to the considerable issues identified in this letter.

The City thanks the Delta Stewardship Council for the opportunity to review and comment on this Third Staff Draft of the Delta Plan. Should you have any questions please contact me at (209) 937-5011.



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